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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,759	12/21/2001	James A. Brady	9386.17711-D	4473

7590

05/30/2003

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EXAMINER

BIANCO, PATRICIA

ART UNIT PAPER NUMBER

3762

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary

Application No.

10/036,759

Applicant(s)

BRADY ET AL.

Examiner

Patricia M Bianco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-92 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-92 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Restriction Requirement*.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- A. Claims 1-15 & 62-76, drawn to a system for removing cytokines or other pro-inflammatory compounds from blood by selective adsorption, classified in class 604, subclass 5.01.
- B. Claims 16-32 & 55-61, drawn to a system and method for treating a chronic physiological condition including means for diagnosing said condition, classified in class 210, subclass 739.
- C. Claims 33, 34 & 55-61, drawn to a method for treating rheumatoid arthritis, classified in class 514, subclass 825.
- D. Claims 35, 36 & 55-61, drawn to a method for treating emphysema, classified in class 128, subclass 898.
- E. Claims 37, 38 & 55-61 drawn to a method for treating asthma, classified in class 514, subclass 826.
- F. Claims 39, 40 & 55-61 drawn to a method for treating pulmonary failure, classified in class 128, subclass 898.
- G. Claims 41, 42 & 55-61 drawn to a method for treating ARDS, classified in class 128, subclass 898.
- H. Claims 43, 44 & 55-61 drawn to a method for treating viral hepatitis, classified in class 424, subclass 149.1.

- I. Claims 45, 46, 81 & 55-61 drawn to a method for treating myocardial ischemia or a cardiac condition, classified in class 128, subclass 898.
- J. Claims 47, 48 & 55-61 drawn to a method for treating an autoimmune disease, classified in class 424, subclass 140.1.
- K. Claims 49, 50 & 55-61 drawn to a method for treating AIDS, classified in class 424, subclass 148.1.
- L. Claims 51, 52 & 55-61 drawn to a method for treating exposure to a biological or chemical agent, classified in class 128, subclass 898.
- M. Claims 53, 54, & 55-61 drawn to a method for treating anthrax exposure, classified in class 128, subclass 898.
- N. Claims 77, 78 & 86-92 drawn to a method for treating a patient experiencing trauma before onset of septic shock, classified in class 424, subclass 140.1.
- O. Claims 79 & 86-92 drawn to a method for treating a patient to undergo surgery, classified in class 128, subclass 898.
- P. Claims 80 & 86-92 drawn to a method for treating a burn victim, classified in class 128, subclass 898.
- Q. Claims 82 & 86-92 drawn to a method for treating a patient selected for or having an organ transplant, classified in class 424, subclass 284.1.
- R. Claims 83 & 86-92 drawn to a method for treating a having reconstructive surgery, classified in class 128, subclass 898.

- S. Claims 84 & 86-92 drawn to a method for treating an Ischemia-reperfusion injury, classified in class 128, subclass 898.
- T. Claims 85 & 86-92 drawn to a method for treating "the crush syndrome", classified in class 128, subclass 898.

The inventions are distinct, each from the other because of the following reasons:

Inventions C through T and A are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to remove components from a stored blood product.

Inventions C through T and B are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another apparatus since the means for diagnosing a chronic condition is not required.

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Inventions C through T are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are distinct from one another since they have different effects, i.e. each results in improvement of a distinct illness or ailment.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning the rejections contained within this communication or earlier communications should be directed to examiner Tricia Bianco whose telephone number is (703) 305-1482. The examiner can normally be reached on Monday through Fridays, alternating Fridays off, from 9:00 AM until 6:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703) 308-5181. The official fax numbers for the organization where this application or proceeding is assigned is (703) 872-9302 for regular communications and for After Final communications (703) 872-9303.

Tricia Bianco
Patent Examiner
Art Unit 3762

pmb: 
May 27th, 2003